

Chapter 47A.

Unit Ownership.

Article 1.

Unit Ownership Act.

§ 47A-1. Short title.

This Article shall be known as the "Unit Ownership Act." (1963, c. 685, s. 1; 1983, c. 624, s. 2.)

§ 47A-2. Declaration creating unit ownership; recordation.

Unit ownership may be created by an owner or the co-owners of a building by an express declaration of their intention to submit such property to the provisions of the Article, which declaration shall be recorded in the office of the register of deeds of the county in which the property is situated. (1963, c. 685, s. 2; 1983, c. 624, s. 2.)

§ 47A-3. Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used herein:

- (1) "Association of unit owners" means all of the unit owners acting as a group in accordance with the bylaws and declaration.
- (1a) "Building" means a building, or a group of buildings, each building containing one or more units, and comprising a part of the property; provided that the property shall contain not less than two units.
- (2) "Common areas and facilities," unless otherwise provided in the declaration or lawful amendments thereto, means and includes:
 - a. The land on which the building stands and such other land and improvements thereon as may be specifically included in the declaration, except any portion thereof included in a unit;
 - b. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;
 - c. The basements, yards, gardens, parking areas and storage spaces;
 - d. The premises for the lodging of janitors or persons in charge of property;
 - e. Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;
 - f. The elevators, tanks, pumps, motors, fans, compressors, ducts, and in general, all apparatus and installations existing for common use;
 - g. Such community and commercial facilities as may be provided for in the declaration; and
 - h. All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.
- (3) "Common expenses" means and includes:
 - a. All sums lawfully assessed against the unit owners by the association of unit owners;

- b. Expenses of administration, maintenance, repair or replacement of the common areas and facilities;
 - c. Expenses agreed upon as common expenses by the association of unit owners;
 - d. Expenses declared common expenses by the provisions of this Article, or by the declaration or the bylaws;
 - e. Hazard insurance premiums, if required.
- (4) "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deductions of the common expenses.
 - (5) "Condominium" means the ownership of single units in a multi-unit structure with common areas and facilities.
 - (6) "Declaration" means the instrument, duly recorded, by which the property is submitted to the provisions of this Article, as hereinafter provided, and such declaration as from time to time may be lawfully amended.
 - (7) "Limited common areas and facilities" means and includes those common areas and facilities which are agreed upon by all the unit owners to be reserved for the use of a certain number of units to the exclusion of the other units, such as special corridors, stairways and elevators, sanitary services common to the units of a particular floor, and the like.
 - (8) "Majority" or "majority of unit owners" means the owners of more than fifty percent (50%) of the aggregate interest in the common areas and facilities as established by the declaration assembled at a duly called meeting of the unit owners.
 - (9) "Person" means individual, corporation, partnership, association, trustee, or other legal entity.
 - (10) "Property" means and includes the land, the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this Article.
 - (11) "Recordation" means to file of record in the office of the county register of deeds in the county where the land is situated, in the manner provided by law for recordation of instruments affecting real estate.
 - (12) "Unit" or "condominium unit" means an enclosed space consisting of one or more rooms occupying all or a part of a floor or floors in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use and shall include such accessory spaces and areas as may be described in the declaration, such as garage space, storage space, balcony, terrace or patio, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.
 - (13) "Unit designation" means the number, letter, or combination thereof designating the unit in the declaration.

- (14) "Unit owner" means a person, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a unit within the building. (1963, c. 685, s. 3; 1969, c. 848; 1971, c. 418; 1983, c. 624, s. 2.)

§ 47A-4. Property subject to Article.

This Article shall be applicable only to property, the full owner or all of the owners of which submit the same to the provisions hereof by duly executing and recording a declaration as hereinafter provided. (1963, c. 685, s. 4; 1983, c. 624, s. 2.)

§ 47A-5. Nature and incidents of unit ownership.

Unit ownership as created and defined in this Article shall vest in the holder exclusive ownership and possession with all the incidents of real property. A condominium unit in the building may be individually conveyed, leased and encumbered and may be inherited or devised by will, as if it were solely and entirely independent of the other condominium units in the building of which it forms a part. Such a unit may be held and owned by more than one person either as tenants in common or tenants by the entirety or in any other manner recognized under the laws of this State. (1963, c. 685, s. 5; 1983, c. 624, s. 2.)

§ 47A-6. Undivided interests in common areas and facilities; ratio fixed in declaration; conveyance with unit.

(a) Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the ratio expressed in the declaration. Such ratio shall be in the approximate relation that the fair market value of the unit at the date of the declaration bears to the then aggregate fair market value of all the units having an interest in said common areas and facilities.

(b) The ratio of the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered except with the unanimous consent of all unit owners expressed in an amended declaration duly recorded.

(c) The undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. (1963, c. 685, s. 6.)

§ 47A-7. Common areas and facilities not subject to partition or division.

The common areas and facilities shall remain undivided and no unit owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this Article as provided in G.S. 47A-16 and 47A-25. Any covenant to the contrary shall be null and void. This restraint against partition shall not apply to the individual condominium unit. (1963, c. 685, s. 7; 1983, c. 624, s. 2.)

§ 47A-8. Use of common areas and facilities.

Each unit owner may use the common areas and facilities in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other unit owners. (1963, c. 685, s. 8.)

§ 47A-9. Maintenance, repair and improvements to common areas and facilities; access to units for repairs.

The necessary work of maintenance, repair, and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bylaws. The association of unit owners shall have the irrevocable right, to be exercised by the manager or board of directors, or other managing body as provided in the bylaws, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units. (1963, c. 685, s. 9.)

§ 47A-10. Compliance with bylaws, regulations and covenants; damages; injunctions.

Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager or board of directors on behalf of the association of unit owners or, in a proper case, by an aggrieved unit owner. (1963, c. 685, s. 10.)

§ 47A-11. Unit owners not to jeopardize safety of property or impair easements.

No unit owner shall do any work which would jeopardize the soundness or safety of the property or impair any easement or hereditament without in every such case the unanimous consent of all the other unit owners affected being first obtained. (1963, c. 685, s. 11.)

§ 47A-12. Unit owners to contribute to common expenses; distribution of common profits.

The unit owners are bound to contribute pro rata, in the percentages computed according to G.S. 47A-6 of this Article, toward the expenses of administration and of maintenance and repair of the general common areas and facilities and, in proper cases of the limited common areas and facilities, of the building and toward any other expense lawfully agreed upon. No unit owner may exempt himself from contributing toward such expense by waiver of the use or enjoyment of the common areas and facilities or by abandonment of the unit belonging to him.

Provided, however, that the common profits of the property, if any, shall be distributed among the unit owners according to the percentage of the undivided interest in the common areas and facilities. (1963, c. 685, s. 12; 1983, c. 624, s. 2.)

§ 47A-13. Declaration creating unit ownership; contents; recordation.

The declaration creating and establishing unit ownership as provided in G.S. 47A-3 of this Article, shall be recorded in the office of the county register of deeds and shall contain the following particulars:

- (1) Description of the land on which the building and improvements are or are to be located.

- (2) Description of the building, stating the number of stories and basements, the number of units, and the principal materials of which it is constructed.
- (3) The unit designation of each unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification.
- (4) Description of the general common areas and facilities and the proportionate interest of each unit owner therein.
- (5) Description of the limited common areas and facilities, if any, stating what units shall share the same and in what proportion.
- (6) Statement of the purpose for which the building and each of the units are intended and restricted as to use.
- (7) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or the place of business of such person which shall be within the city and county in which the building is located.
- (8) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this Article.
- (9) The method by which the declaration may be amended, consistent with the provisions of this Article. (1963, c. 685, s. 13; 1983, c. 624, s. 2.)

§ 47A-14. Repealed by Session Laws 1981, c. 527, s. 1, effective October 1, 1981.

§ 47A-14.1. Deeds conveying units.

(a) Any conveyance of a condominium unit executed on or after October 1, 1981, which complies with the general requirements of the laws of this State concerning conveyances of real property shall be valid.

(b) All conveyances of condominium units executed before October 1, 1981, which comply with the general requirements of the laws of this State concerning conveyances of real property shall be valid even though such conveyances failed to comply with one or more of the particulars set out in former G.S. 47A-14. (1981, c. 527, ss. 2, 3.)

§ 47A-15. Plans of building to be attached to declaration; recordation; certificate of architect or engineer.

(a) There shall be attached to the declaration, at the time it is filed for record, a full and exact copy of the plans of the building, which copy of plans shall be entered of record along with the declaration. Said plans shall show graphically all particulars of the building, including, but not limited to, the layout, location, ceiling and floor elevations, unit numbers and dimensions of the units, stating the name of the building or that it has no name, area and location of the common areas and facilities affording access to each unit, and such plans shall bear the verified statement of a registered architect or licensed professional engineer certifying that it is an accurate copy of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings. If such plans do not include a verified statement by such architect or engineer that such plans fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of the units, as built, there shall be recorded prior to the first conveyance of any unit an amendment to the declaration to which shall be attached a verified statement of a registered

architect or licensed professional engineer certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully depict the layout, ceiling and floor elevations, unit numbers and dimensions of the units as built. Such plans shall be kept by the register of deeds in a separate file, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "Unit Ownership," with the name of the building, if any, and each containing a reference to the book and page numbers and date of the recording of the declaration.

(b) In order to be recorded, plans filed for recording pursuant to subsection (a) shall:

- (1) Be reproducible plans on cloth, linen, film or other permanent material and be submitted in that form; and
- (2) Have an outside marginal size of not more than 21 inches by 30 inches nor less than eight and one-half inches by 11 inches, including one and one-half inches for binding on the left margin and a one-half inch border on each of the other sides. Where size of the buildings, or suitable scale to assure legibility require, plans may be placed on two or more sheets with appropriate match lines.

(c) The fee for recording each plan sheet submitted pursuant to subsection (a) shall be as prescribed by G.S. 161-10(a)(3). (1963, c. 685, s. 15; 1981, c. 587.)

§ 47A-16. Termination of unit ownership; consent of lienholders; recordation of instruments.

(a) All of the unit owners may remove a property from the provisions of this Article by an instrument to that effect, duly recorded, provided that the holders of all liens, affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property as hereinafter provided.

(b) Upon removal of the property from the provisions of this Article, the property shall be deemed to be owned as tenants in common by the unit owners. The undivided interest in the property owned as tenants in common which shall appertain to each unit owner shall be the percentage of the undivided interest previously owned by such unit owner in the common areas and facilities. (1963, c. 685, s. 16; 1983, c. 624, s. 2.)

§ 47A-17. Termination of unit ownership; no bar to reestablishment.

The removal provided for in G.S. 47A-16 shall in no way bar the subsequent resubmission of the property to the provisions of this Article. (1963, c. 685, s. 17; 1983, c. 624, s. 2; 2002-159, s. 10.)

§ 47A-18. Bylaws; annexed to declaration; amendments.

The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration. No modification of or amendment to the bylaws shall be valid, unless set forth in an amendment to the declaration and such amendment is duly recorded. (1963, c. 685, s. 18; 1973, c. 734.)

§ 47A-19. Bylaws; contents.

The bylaws shall provide for the following:

- (1) Form of administration, indicating whether this shall be in charge of an administrator, manager, or of a board of directors or board of administration, independent corporate body, or otherwise, and specifying the powers, manner of removal, and, where proper, the compensation thereof.
- (2) Method of calling or summoning the unit owners to assemble; what percentage, if other than a majority of unit owners, shall constitute a quorum; who is to preside over the meeting and who will keep the minute book wherein the resolutions shall be recorded.
- (3) Maintenance, repair and replacement of the common areas and facilities and payments therefor, including the method of approving payment vouchers.
- (4) Manner of collecting from the unit owners their share of the common expenses.
- (5) Designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.
- (6) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities.
- (7) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common areas and facilities, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several unit owners.
- (8) The percentage of votes required to amend the bylaws, and a provision that such amendment shall not become operative unless set forth in an amended declaration and duly recorded.
- (9) A provision that all unit owners shall be bound to abide by any amendment upon the same being passed and duly set forth in an amended declaration, duly recorded.
- (10) Other provisions as may be deemed necessary for the administration of the property consistent with this Article. (1963, c. 685, s. 19; 1983, c. 624, s. 2.)

§ 47A-20. Records of receipts and expenditures; availability for examination; annual audit.

The manager or board of directors, or other form of administration provided in the bylaws, as the case may be, shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and identifying the maintenance and repair expenses of the common areas and facilities and any other expense incurred. Both said book and the vouchers accrediting the entries thereupon shall be available for examination by all the unit owners, their duly authorized agents or attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good and accepted accounting practices and an outside audit shall be made at least once a year. (1963, c. 685, s. 20.)

§ 47A-21. Units taxed separately.

Each condominium unit and its percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be separately assessed and taxed by each assessing unit and special district for all types of taxes authorized by law including but not limited

to special ad valorem levies and special assessments. Each unit holder shall be liable solely for the amount of taxes against his individual unit and shall not be affected by the consequences resulting from the tax delinquency of other unit holders. Neither the building, the property nor any of the common areas and facilities shall be deemed to be a parcel. (1963, c. 685, s. 21.)

§ 47A-22. Liens for unpaid common expenses; recordation; priorities; foreclosure.

(a) Any sum assessed by the association of unit owners for the share of the common expenses chargeable to any unit, and remaining unpaid for a period of 30 days or longer, shall constitute a lien on such unit when filed of record in the office of the clerk of superior court of the county in which the property is located in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes. Upon the same being duly filed, such lien shall be prior to all other liens except the following:

- (1) Assessments, liens and charges for real estate taxes due and unpaid on the unit;
- (2) All sums unpaid on deeds of trust, mortgages and other encumbrances duly of record against the unit prior to the docketing of the aforesaid lien.
- (3) Materialmen's and mechanics' liens.

(b) Provided the same is duly filed in accordance with the provisions contained in subsection (a) of this section, a lien created by nonpayment of a unit owner's pro rata share of the common expenses may be foreclosed by suit by the manager or board of directors, acting on behalf of the unit owners, in like manner as a deed of trust or mortgage of real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the unit owners shall have power, unless prohibited by the declaration, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. A suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(c) Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage, such purchaser, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the association of unit owners chargeable to such unit which became due prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such purchaser, his successors and assigns. (1963, c. 685, s. 22.)

§ 47A-23. Liability of grantor and grantee of unit for unpaid common expenses.

The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or board of directors, as the case may be, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth. (1963, c. 685, s. 23.)

§ 47A-24. Insurance on property; right to insure units.

The manager of the board of directors, or other managing body, if required by the declaration, bylaws or by a majority of the unit owners, shall have the authority to, and shall, obtain insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required or requested. Such insurance coverage shall be written on the property in the name of such manager or of the board of directors of the association of unit owners, as trustee for each of the unit owners in the percentages established in the declaration. The trustee so named shall have the authority on behalf of the unit owners to deal with the insurer in the settlement of claims. The premiums for such insurance on the building shall be deemed common expenses. Provision for such insurance shall be without prejudice to the right of each unit owner to insure his own unit for his benefit. (1963, c. 685, s. 24.)

§ 47A-25. Damage to or destruction of property; repair or restoration; partition sale on resolution not to restore.

Except as hereinafter provided, damage to or destruction of the building shall be promptly repaired and restored by the manager or board of directors, or other managing body, using the proceeds of insurance on the building for that purpose, and unit owners shall be liable for assessment for any deficiency; provided, however, if the building shall be more than two-thirds destroyed by fire or other disaster and the owners of three-fourths of the building duly resolve not to proceed with repair or restoration, then and in that event:

- (1) The property shall be deemed to be owned as tenants in common by the unit owners;
- (2) The undivided interest in the property owned by the unit owners as tenants in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;
- (3) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided herein; and
- (4) The property shall be subject to an action for sale for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among all the unit owners in proportion to their respective undivided ownership of the common areas and facilities, after first paying off, out of the respective shares of unit owners, to the extent sufficient for that purpose, all liens on the unit of each unit owner. (1963, c. 685, s. 25.)

§ 47A-26. Actions as to common interests; service of process on designated agent; exhaustion of remedies against association.

Without limiting the rights of any unit owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of two or more of the unit owners, as their respective interests may appear, with respect to any course of action relating to the common areas and facilities or more than one unit. Service of process on two or more unit owners in any action relating to the common areas and facilities or more than one unit may be made on the person designated in the declaration to receive service of process. Any

individual, corporation, partnership, association, trustee, or other legal entity claiming damages for injuries without any participation by a unit owner shall first exhaust all available remedies against the association of unit owners prior to proceeding against any unit owner individually. (1963, c. 685, s. 26.)

§ 47A-27. Zoning regulations governing condominium projects.

Whenever they deem it proper, the planning and zoning commission of any county or municipality may adopt supplemental rules and regulations governing a condominium project established under this Article in order to implement this program. (1963, c. 685, s. 27; 1983, c. 624, s. 2.)

§ 47A-28. Persons subject to Article, declaration and bylaws; effect of decisions of association of unit owners.

(a) All unit owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use the property or any part thereof submitted to the provisions of this Article, shall be subject to this Article and to the declaration and bylaws of the association of unit owners adopted pursuant to the provisions of this Article.

(b) All agreements, decisions and determinations lawfully made by the association of unit owners in accordance with the voting percentages established in the Article, declaration or bylaws, shall be deemed to be binding on all unit owners. (1963, c. 685, s. 28; 1983, c. 624, s. 2.)

§§ 47A-29 through 47A-33. Reserved for future codification purposes.